

ACADEMIES PLUS (A+)

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WELCOME TO MOORE KINGSTON SMITH'S NEW ACADEMY SECTOR SUPPLEMENT, ACADEMIES PLUS (A+)

For those of us who work in the accounting and audit world of the academy sector, winter is when we are most engaged directly with our clients. October to December is a busy period for school finance teams and the pressures of annual accounts needing to be prepared, audited and signed off before the deadline means lots of long hours being logged by all parties.

This means that we get to spend more time with our clients, which gives us even further insight in to what they are thinking about and what is important to them.

So, in our first issue of A+ we take a closer look at the issues our clients are talking about and also what they should be thinking about.

If you would like to discuss these topics in more detail, please do not hesitate in contacting me directly.



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INTRODUCING ESSENTIAL CYBER DEFENCES FOR MULTI-ACADEMY TRUSTS

Benn Davis, Director, ClearComm

Confidentiality of information in schools has always been of paramount importance. A breach affecting records of children, parents and teachers is very serious and would invite increased regulatory and public scrutiny with potential severe financial penalties. Uncontrolled disclosure of sensitive information, such as school or trust performance, is also highly undesirable. This could undermine the trust the government and other institutions have in the multi-academy trust and its governing structure.

Furthermore, reflecting the general pervasiveness of technology in our lives, schools are much more reliant on IT to both run the school and deliver lessons within the classroom. An IT outage affecting the school's computer system may, within quite a short time frame, affect the school's ability to deliver good-quality education to its learners.

The security threat from the simple use of email and the web is very real, with phishing and ransomware attacks commonplace in today's internet-connected world. Successful cyber attacks range from the theft of sensitive information to long-term disruption to the operation of IT systems.

Cyber attacks and scams are on the increase. Between September 2018 and Spring 2019, 48 schools reported issues. Of those, 12 lost £145,124 between them and one lost £19,150.

The Information Commissioner's Office also reports that the number of data breaches has increased by 47% on the previous twelve months.

Maintaining a minimum level of cyber compliance across a trust's IT infrastructure is absolutely key to not falling victim to an opportunist cyber attack. As technology is constantly evolving and becoming more ingrained in daily life, it is often difficult to know what this minimum level looks like in practice.

The technical capabilities to strengthen cyber security defences are not always internally available within the trust or its schools. For trust governors, it can be

challenging to determine whether the trust and its schools are adequately protected against the widespread threat of a cyber attack.

This issue facing the sector and other organisations across the country led to the UK government introducing the Cyber Essentials scheme. The scheme is designed to protect organisations against 80% of the most common cyber attacks that can affect businesses of all sizes, industries and sectors. The five controls within the scheme are designed to protect an organisation against these types of cyber attacks and guard internet connection, devices, data and services.

Basic Level Cyber Essentials is a self-assessment and provides elementary assurance that the controls have been implemented correctly by the organisation. Cyber Essentials Plus requires an on-site audit, thereby providing independent assurance of the effectiveness of these controls.

Benn is a cyber and data specialist who advises and implements data protection and cyber security solutions for charities and schools.

He ensures correct procedures and systems are implemented to help combat the ongoing threat in the loss of data and network breaches.

Benn and his team will be running a cyber security conference on 10 March 2020. If you would like to be alerted when registration opens, please email benn@clearcomm.org

RECRUITING AND RETAINING STAFF

*Richard Cummings, Director
Moore Kingston Smith HR Consultancy*

Staff shortages in schools can often hit certain subjects and can leave pupils disadvantaged. Reviewing salary and benefits offered could increase the recruitment and retention of talent required while reducing the costs of repeat recruitment and supply cover.

SALARY

Situation

Academies have the flexibility to design their own pay structure. Most have existing pay schemes in place but this does not always support the demand for skills. In such instances, new recruits are slotted in anywhere on the pay scale, so questioning the very pay structure in place.

Alternative options that could be considered:

- Retain the current grading scheme and offer a market forces premium for subjects with a skills shortage.
- Remove the banding scheme and implement a flexible reward scheme based on performance factors.

Solution

We worked with an organisation that was suffering from poor retention of staff. Their staff felt that their hard work, which produced positive results, was not rewarded; the only rewards came with length of service. A salary banding and grading system was in place and while the employees appeared to dislike the scheme's lack of ability to reward for actual work, the leadership team felt it provided a framework for them to work within. We reviewed the comments raised from both the senior team and the employees and made our recommendations. We suggested retaining the salary banding scheme to preserve transparency; however, market forces premiums were introduced. A bonus scheme housing a number of elements was implemented and those who operated at a higher level were rewarded with scale point increases using the current grading system.

ACCOMMODATION

Situation

Offering accommodation (if the academy has access to any) as part of the package could improve the attractiveness at the recruitment stage. It also has the added benefit of helping retain existing staff as the accommodation is linked to the role. Although this does have tax implications, the advantages might outweigh the costs, offering the ability to recruit from geographically further afield.

Solution

We worked with one organisation that required the staff to be on call out of normal working hours. The organisation provided them with living accommodation in order for them to perform these duties. Adding a number of agreed conditions, we worked with the organisation to enable them to provide the living accommodation tax-free. This was a significant saving for the staff and a huge incentive for them to join the organisation.

CONTINUED PROFESSIONAL DEVELOPMENT

Situation

Offering access to training that isn't linked to teaching and support staff's existing roles, but is easily provided within the trust network and can be seen as an added benefit to those who wish to take advantage of it. This could be offered at negligible costs as the training can be provided in-house. For example, after-school music or cooking lessons not only benefit those receiving the training but may inspire those providing it.

Solution

We worked with one organisation that from the outset stated that "training pots can be expensive, run wildly out of control and be used for unrelated learning, the biggest criticism is that some had access to it and others didn't". After understanding what they had actually wanted to achieve, we suggested that all staff were allocated a training pot which could be used against internal or external training. Internal training used less of the pot and staff were encouraged to offer training or run internal training courses in return for a larger pot allocation, almost like a give and receive system. As a result staff performance improved; in addition it increased the wellbeing of staff, boosted morale and became a unique differentiation against competition.

FLEXIBLE WORKING

Situation

The most sought-after benefit in the private sector is currently flexible working. While it is seemingly difficult to offer such benefits in the education sector, some creative thinking could enable academies to offer more to their employees. Flexible working might seem like an unnecessary complication, however, just because it is offered does not mean that it will be taken up.

The following flexible working opportunities could be considered:

- Offering sabbaticals
- Offering flexible working pattern by adjusting the education timetable
- Job sharing
- The ability to move teachers to an academy of their choice, or for them to work in multiple sites if possible.

Solution

We worked with an organisation that was faced with multiple flexible working requests. They contacted us to help them manage the requests as they did not believe they could accommodate all of them. We discussed the mechanics of each role to understand if we could offer job sharing as a solution for many of the requests. After reviews with the affected staff, we were able to introduce job sharing. This meant that the organisation avoided loss of talent (or knowledge) and helped make them an employer of choice.

PROMOTIONS

Situation

The bigger the trust and the more academies within it, the easier it is to retain good employees through promotion opportunities. The larger the trust the more opportunities exist to promote internally, as employees could be promoted to a different academy within the trust. It is recommended that a structured, well-managed process is put in place to facilitate this. By completing competency-based assessments and appraisals, talented staff can be identified to fill skills gaps from within. This in turn reduces recruitment costs for senior roles.



Solution

We worked with an organisation that had limited promotion opportunities. After reviewing their organisational chart, we identified routes from role to role which showed some form of career path. We added competencies to the job descriptions which allowed staff to upskill before applying for senior roles. In turn, this reduced the volume of failing staff unable to operate at a senior level, reduced recruitment costs and increased staff retention.

FURTHER COST SAVINGS

Situation

As trusts grow and more academies are added, more employees are transferred into the trust under the Transfer of Undertakings Protection of Employment (TUPE) regulations. This creates a greater overlap in support roles such as administration and payroll. Additions to the TUPE regulations allow organisations some flexibility under economic, technical and organisational (ETO) reasons to instigate redundancies for duplicate roles.

Considerations could be given to the following:

- Centralising support functions such as finance, administration, HR, payroll, maintenance and compliance could reduce headcount costs.
- Conducting a time and motion study on secretaries and support staff to understand if these areas are over resourced.
- The ability to employ peripatetic teachers on the payroll has increased as trusts have greater ability to occupy more of their time, which in turn reduces the hourly costs of having a self-employed peripatetic teacher. There is one payroll with only internal cross-charging. The advantage for peripatetic teachers includes their schedules being done for them, consistency in salary with tax and NIC taken at source and being included in staff socials.

Solution

We worked with an organisation where staff were transferring in and protected by TUPE regulations. Working with the client and also the transferor to review staff data allowed us to understand where crossover roles existed. Under ETO guidelines in the TUPE regulation, some staff did not transfer and were financially compensated for the loss. Others were relocated on the day of the transfer to suitable alternative roles and some were given much more rewarding positions where they had more responsibility or control than they previously had. This resulted in the organisation retaining the talent they required without huge increases to staff costs or duplicate roles.

Richard has worked in HR and management for over 20 years and advises businesses across multiple sectors in all aspects of HR management, from bespoke selection campaigns to developing corporate HR strategies for clients.

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EFFECTIVE BENCHMARKING – BEST USE OF COMPARISON DATA

*James Saunders, Partner, Education and Not for Profit
Moore Kingston Smith*

For schools, benchmarking is one of the most useful tools in the search for meaningful financial analysis, and can assist with both reviewing historical performance and, crucially, with making budgetary and (by extension) strategic decisions.

The Department for Education publishes a huge amount of financial (and non-financial) data on academies and hosts its own benchmarking tool on the gov.uk website. The schools financial benchmarking portal allows you to view your school or trust with others and is a useful first step for analysing historical data.

However, all this data needs to be used and interpreted with great care (as any good survey itself will warn) since misguided application of such crude information may lead to misleading or inaccurate conclusions, and consequently harm operational or strategic decisions. Analysis is only as good as the accuracy and relevance of the data on which it is based, and for that reason, careful planning needs to be carried out to make sure that benchmarking is not a wasted effort.

To make best use of the data, and reap the benefits of effective benchmarking, it is essential to pin down exactly what you want to learn from any benchmarking exercise. It is very easy to get swathes of comparison information, but if that information is not relevant to your particular focus or considerations, then it will likely be ineffective in dealing with those considerations. By way of a very simple example, you may use the data to compare your school against other schools in your area, but other than geography, those schools may otherwise have very little in common with your own school – hence the comparisons are unlikely to be useful or constructive.

The key things to consider therefore when approaching any benchmarking process are:

1. Know what the purpose of the benchmarking is – this involves agreeing amongst relevant stakeholders (i.e. whoever wants the benchmarking and whoever is going to undertake the benchmarking) what the results of the exercise are expected to show, and what the exercise will help to enact. One of the most common uses of benchmarking is to review costs and see where you may be spending more than your peers or the industry average – but other reasons to carry out benchmarking might be to assess academic or staff performance, to provide evidence for a particular approach or in making a decision, or to judge the success of discrete projects or ventures.
2. Agree on the general approach – based on the answers to (1) above, who does what work, what the overall timescale is (taking in to account any important deadlines or any other relevant timing factors), what do you want the report to contain or focus on, and in what format do you want the report (verbal or written) presented?
3. Agree on the more specific format – what do you want to see as an end result, what is the detailed timetable, and how do you want any report to look or feel?
4. Agree on the sources – where are you going to get the information from? This is important to make sure that whoever is tasked with the various aspects of any work knows what is expected of them and the limits of their work.
5. Ensure comparability – delve a little deeper into the comparators, perhaps even after the start of the exercise to monitor and if necessary revisit the comparison population based on initial work.
6. Consider and assess difficulties – to make sure that hurdles can be foreseen wherever possible and potential problems can be mitigated. These will invariably be particular to an individual entity's specific situation, but by way of example, it might be advisable to consider whether there will be any break or reduction in staff availability for the project (for holidays, busy periods etc.), whether any difficulties might arise in obtaining information or in maintaining the integrity of information (maybe the project timescale is so long that new data might be available before the end of the project?) or whether any other factors might arise which would make the benchmarking exercise redundant.
7. Analyse and report – the main bulk of these points are in the planning and setup phase. If you have undertaken these steps well, then the actual analysis and report should be a relatively simple process.

Throughout the considerations in these steps, it is vital to keep in mind the purpose of the exercise being undertaken, and to avoid "mission creep", which can easily occur when individuals delve further and further into data (that's an accountant speaking!).

The benefits of an effective benchmarking exercise are significant. It can identify areas that need to change – inform the approach to making that change and assist with the practical application of that change. As an example, we have a number of education clients who

have recently been looking at their energy costs, an issue which was identified through a high-level benchmarking review of historical costs against peer academies. Having identified this as an anomaly, further benchmarking was carried out to compare suppliers and invariably, the result has been that costs have reduced (either through informed negotiation with the existing supplier or through switching).

As such, not only can benchmarking be of real use in deciding how best to spend limited resources, which we know is of paramount importance in the academies sector right now, it can also be put to several other uses in making informed decisions, both operational (such as recruitment) and strategic. The key however is always to be clear about the ultimate purpose and quality of data in order to make sure that the process is as effective as possible.

James specialises in the not for profit sector, in particular the education sector and is a trusted adviser to academies, multi-academy trusts and independent schools.

He is a regular presenter at education sector events and participates in governmental forums.

To sign up to our education updates, please email pd@mks.co.uk

BITE-SIZE TAX NEWS

CHARITY TAX STATUS AND REGISTRATION WITH HMRC

Did you know that academies that have charity status are fully eligible for a number of valuable tax reliefs? However, before these can be claimed, the academy should register online with HMRC. Failure to do so could mean that tax reliefs are lost.

Registration with HMRC is separate from the legal requirement for a charitable company to register at Companies House.

MAKING THE MOST OF GIFT AID

Academies receiving donations from individuals under the Gift Aid scheme can qualify for a top-up payment from HMRC worth 25% of the amount donated.

To be able to claim this benefit a few procedural hoops need to be gone through. For example:

- A Gift Aid declaration in a form acceptable to HMRC must be completed by the donor declaring that the donation is freely given with no obligations.
- Claims for top-up payments must be made to HMRC, normally through the academies online repayment system.

For small cash (or contactless) gifts of less than £30, a special Gift Aid small donations scheme allows academies to claim top-up payments without any need for donors to complete Gift Aid declarations.

The Gift Aid scheme gives academies with charitable status the opportunity to boost their gift/donation income by 25%.

SPONSORSHIP AND NON-PRIMARY PURPOSE TRADING

*Jeremy Norman, Senior Tax Manager
Moore Kingston Smith*

As academies are put under increasing pressure to maximise income and find innovative ways of generating it, they need to be alert to the fact that not all income received by a charity is necessarily tax-exempt. Payments to an academy by sponsors is an area that often gives rise to difficulties.

For example, we have clients who put on a number of events each year for which they receive sponsorship, which do not fall within the tax exemption for fundraising events. One of our clients proposed to enhance the benefits available to sponsors of those events. They asked whether the enhancements could take the sponsorship income beyond what could be regarded as 'ancillary' to primary purpose trading for tax purposes.

The point here is that the tax exemption for a charity's 'primary purpose' trading income also applies to income from activities that are ancillary to the primary purpose trading. Where income is derived from activities that are too remote from primary purpose trading to be regarded as ancillary, this is not tax-exempt in the hands of the academy (unless the academy's gross non-primary purpose/ancillary trading income falls below a threshold, currently set at £80,000 a year from 1 April 2019).

HMRC's published guidance on 'trading by charities' gives examples of typical benefits a sponsor might receive and whether, in HMRC's view, they fall within or outside the ancillary category. Our view was that in this case the benefits the sponsors received would be clearly outside the ancillary category.

Our solution was to recommend the setting-up of a trading subsidiary to receive the sponsorship income and provide the relevant benefits, and for the parent to license the trading subsidiary to grant the intended benefits. Although the subsidiary will be liable to corporation tax on the profits from the sponsorship income, it will be able to make an annual Gift Aid payment to its parent to reduce its taxable profits to zero.

The new £80,000 a year threshold came in to effect in April 2019. The tax-exempt threshold for non-primary purpose trading gross income applies to the aggregate income of all the schools within the academy trust. The threshold does not apply to each individual school.

Jeremy is a highly experienced tax adviser (formerly at a Big Four) and has a legal background. His specialisms include the taxation of not for profit organisations in their widest forms.

To sign up to our tax updates, please email pd@mks.co.uk



OFF-PAYROLL WORKING RULES AND MULTI-ACADEMY TRUSTS

*John Williams, Senior Tax Manager
Moore Kingston Smith*

Following the off-payroll worker rules being widened to the private sector from April 2020, including multi-academy trusts, we may see a return of contractor resource, and an understanding of the tax rules when using contractors is crucial to ensure full compliance.

Below is a reminder of the off-payroll working rules and the risks.

What do the rules mean for a multi-academy trust?

The rules mean that when your organisation is engaging individuals, consultants, contractors or freelancers who provide services through their own company, your organisation will be responsible for deciding if tax and national insurance should be deducted at source, under the PAYE rules.

If you determine that the contractor providing services to you should be treated as an employee under these new rules, you will need to deduct both income tax and employee NICs. You will also need to pay employer NICs even if the services are provided to you through a personal service company.

If your organisation is paying an agency that has the contract with the individual's personal service company, the agency is responsible for deducting these payroll taxes. However, you as the end user of the services must tell the agency, as well as the individual, whether the off-payroll working rules apply.

Key risks for your organisation:

- Greater compliance burden – adding a further strain to your trusts resources.
- Getting the determination wrong – HMRC's "Check Employment Status for Tax" tool does not give an accurate reflection of the full range of case law on employment status.

- The cost to your organisation of using a contractor where the intermediaries' legislation applies has increased by up to 14.3% (current employer NIC charge and apprenticeship levy).

How does Moore Kingston Smith deal with HMRC on these issues?

By drawing on our experience with the existing public sector regime and dealing with HMRC on general employment status issues.

The steps we follow are:

1. Assess the workforce to identify the contractors who fall under these new rules. Based on your knowledge of the working arrangements you have with the contractors, we would perform status determinations and review the contracts you currently have in place.
2. Review your processes and systems to ensure that contracts for personal services are identified and handled correctly. This will include determining their status and passing on the correct sums to payroll for calculations on the necessary deductions.
3. Perform due diligence on the supply chain to protect you against the transfer of PAYE liabilities from agencies back to your organisation.
4. Create a dispute resolution policy to comply with your statutory obligation.

John has worked in tax for over ten years advising on all aspects of UK employment taxes and assists clients with cross-border issues.

Off-payroll working brings interesting tax implications, and John is currently spending a great deal of time advising organisations on how to be compliant with the new off-payroll worker rules. These will take effect from April 2020 and apply to medium and large organisations with an annual turnover of more than £10.2 million.

REMINDER: CALCULATING HOLIDAY PAY FOR IRREGULAR HOURS WORKERS FOR SCHOOLS

*Richard Cummings, Director
Moore Kingston Smith HR Consultancy*

Up until March 2018, employers calculated workers' accrued holiday pay on the basis that holiday pay accrues at the rate of 12.07% for every day worked.

With effect from March 2018, this figure must be replaced by 17.5% for term-time employees and workers at independent schools who work irregular hours.



The calculation is as follows:

- The working year = 46.4 weeks.
- The working year for independent schools is 32 weeks and for the state sector is 39 weeks. This figure can be substituted if your school has a different number of weeks in its working year.

Therefore:

- $46.4 \div 32 \text{ weeks} = 1.45$
- $1.45 \times 12.07\% = 17.5\%$.

Is this discrimination against workers with regular hours?

It has been recognised that this could be a result of this method of calculation.

However, while there is a duty to make sure that part-time workers do not receive any less favourable treatment than their full-time counterparts, there is no duty to make sure that less favourable treatment does not happen to employees or workers with regular hours.

Employers should not therefore be concerned about discrimination claims from full-time workers or employees on this basis. They should simply apply the correct calculation where necessary.

Do I have to change the way I calculate holiday pay for all staff?

Only for those workers and employees who work irregular hours. The 12.07% figure should still be used for workers and employees with regular hours, whether part-time or full-time.

The calculation of holiday pay can be difficult with new cases coming out on a regular basis. It is important to get the calculation right to avoid claims for an unauthorised deduction from wages. We strongly advise moving away from using zero-hour contracts and instead using casual worker agreements.



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